

**COUNCIL MEETING NOTICE AND AGENDA
WEDNESDAY, FEBRUARY 13, 2013
10:00 A.M. OR SOON THEREAFTER**

COUNCIL CHAMBERS
HISTORIC COUNTY BUILDING
4396 RICE STREET, SUITE 209
Līhu'e, Kaua'i, Hawai'i 96766

RECEIVED
13 FEB -7 P1:14

A. MEETING CALLED TO ORDER.

B. ROLL CALL.

C. APPROVAL OF AGENDA.

D. MINUTES of the following meetings of the Council:

1. January 4, 2013 Special Council Meeting
2. January 17, 2013 Special Council Meeting
3. January 17, 2013 Public Hearing re: Bill No. 2439, Bill No. 2460, and Bill No. 2461
4. January 23, 2013 Special Council Meeting

E. CONSENT CALENDAR:

1. C 2013-63 Communication (01/24/2013) from the Director of Planning, transmitting for Council consideration, the Planning Commission's recommended Amendments to the Subdivision Ordinance (Chapter 9, Kaua'i County Code 1987, as amended) to allow for Multi-Modal Transportation Principles for Subdivisions. (*Copies of Director's Report, Supplement to the Director's Report, and the Planning Commission Public Hearing Minutes on file in the County Clerk's Office.*).
(See Proposed Draft Bill (No. 2465))
2. C 2013-64 Communication (01/24/2013) from the Mayor, transmitting for Council consideration and confirmation the following Mayoral appointees to the various Boards and Commissions for the County of Kaua'i:
 - (1) Civil Service Commission:
 - Karen S. Matsumoto – Term ending 12/31/2015
 - (2) Fire Commission:
 - Savita Agarwal – Term ending 12/31/2015
 - (3) Planning Commission:
 - John K. Isobe – Term ending 12/31/2015
 - Amy A. Mendonca – Term ending 12/31/2015

F. COMMUNICATIONS:

1. C 2013-38 Communication (12/10/2012) from the Director of Finance, requesting Council approval to dispose of government records in the Department of Finance, Accounting Division, pursuant to Hawai'i Revised Statutes (HRS) 46-43(c) and Resolution No. 49-86 (1986), as amended. The reports and records have met the seven (7) and ten (10) year retention periods:
 - (1) Seven (7) Year retention:
 - Cash Receipts: 2002 to, and including June 30, 2005,
 - Payroll checks: 2004 to, and including June 30, 2005,
 - Accounts Payable cancelled checks: 2003 to, and including June 30, 2005,
 - Accounts Payable Registers: 2004 to, and including June 30, 2005,
 - Inventory Files: 2003 to, and including June 30, 2005.
 - (2) Ten (10) Year retention:
 - Accounts Payable: November 2001 to, and including June 30, 2002.

(Deferred 01/30/2013)
2. C 2013-65 Communication (01/03/2013) from Council Vice Chair Nakamura, requesting the presence of Diane Zachary, President & CEO of the Kaua'i Planning & Action Alliance, and Jerome Argusa, Ph.D, Professor at Hawai'i Pacific University, to provide a progress report and update on the Sports & Recreation Inventory, Comprehensive Economic Development Strategy (CEDS) Project.
3. C 2013-66 Communication (01/09/2013) from the Director of Economic Development, requesting agenda time for the Kaua'i Visitors Bureau to provide an update and presentation of the Kaua'i Visitors Bureau Consumers Promotion Grant to assist marketing efforts of East Kaua'i's Royal Coconut Coast Resorts and Businesses.
4. C 2013-67 Communication (01/18/2013) from the Housing Director, requesting Council approval to acquire a residential unit situated at 4222 Ka'ana Street, Lihu'e, Kaua'i, Hawai'i, under the County's Community Development Block Grant (CDBG) Program.
 - TMK: (4) 3-6-018-058-0002
5. C 2013-68 Communication (01/23/2013) from the Chief of Police, requesting Council approval to expend approximately eleven thousand dollars (\$11,000.00) from the Other Commodities Fund (Account No. 001-1004-551.67-00) to purchase two (2) FNH Sniper Rifles for use within the Kaua'i Police Department's Special Services Team (S.S.T.).

6. C 2013-69 Communication (01/28/2013) from the Chief of Police, requesting Council approval to purchase six (6) new XTL-5000 Motorola Digital Mobile Police Radios at the cost of approximately \$28,807.08 utilizing money in the Kaua'i Police Department's General Fund – Other Services Account (Account No. 001-1003-551.30-00). The new Motorola Digital Mobile Police Radios will be replacing obsolete Motorola Analog Police Radios and will be installed in the new Toyota Trucks and Ford Sport Utility Vehicles.
7. C 2013-70 Communication (01/29/2013) from the Deputy Director of Finance, transmitting for Council information, Period 1-5 Financial Reports – Detailed Budget Report, Statement of Revenues (Estimated and Actual), Statement of Expenditures and Encumbrances, and Revenue Report as of November 30, 2012, pursuant to Section 21 of the Fiscal Year 2012-2013 Operating Budget Ordinance No. B-2012-736 of the County of Kaua'i. *(Copies of the Periods 1-5 Financial as of November 30, 2012 on file in the County Clerk's Office).*
8. C 2013-71 Communication (01/31/2013) from the County Attorney, requesting authorization to expend up to \$25,000.00 for special counsel's continued services provided for Defendant Shaylene Iseri-Carvalho in Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 RLP (U.S. District Court), and related matters.
9. C 2013-72 Communication (01/31/2013) from the County Attorney, requesting authorization to expend up to \$50,000.00 for special counsel's continued services provided for Defendant Sheilah Miyake in Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 RLP (U.S. District Court), and related matters.
10. C 2013-73 Communication (01/31/2013) from the County Attorney, requesting authorization to expend up to \$8,920.00 for special counsel's services provided in Wayne R. Daniel v. Kodani and Associates, Inc., et al., Civil No. 08-1-0006 (Fifth Circuit Court), and related matters.
11. C 2013-74 Communication (02/01/2013) from the County Attorney, transmitting for Council information the Quarterly Report on Settled Claims Against the County of Kaua'i from October 1, 2012 to December 31, 2012.

G. LEGAL DOCUMENTS:

1. C 2013-75 Communication (02/06/2013) from the County Attorney, requesting Council approval of the Agreement for Dedication of Property, made by and between CBG Partners and the County of Kaua'i, under which CBG Partners agrees to dedicate two (2) right-of-way parcels consisting of 0.013 and 3.068 acres, respectively, for the Proposed Northern Leg of the Western By-Pass Road in Kōloa, Kaua'i, Hawai'i, in exchange for the sum of \$161,502.00, with the County of Kaua'i paying \$38,878.00 and Kukui'ula Development Company (Hawai'i), LLC, paying \$122,624.00.

H. CLAIMS:

1. C 2013-76 Communication (01/23/2013) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Crawford & Company, as subrogee for Fe Cantorna and Geomar Cantorna, for damage to their personal property, pursuant to Section 23.06, Charter of the County of Kaua'i.
2. C 2013-77 Communication (01/23/2013) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Midori C. Komar, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.
3. C 2013-78 Communication (01/29/2013) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Alice M. Morikawa, for financial loss, and emotional and psychological damages, pursuant to Section 23.06, Charter of the County of Kaua'i.

I. COMMITTEE REPORTS:PLANNING COMMITTEE:

CR-PL 2013-01: on Bill No. 2439

A BILL FOR AN ORDINANCE
AMENDING CHAPTER 8, KAUAI
COUNTY CODE 1987, AS AMENDED,
RELATING TO THE COUNTY OF
KAUAI PLANNING DEPARTMENT
CIVIL FINES [Approved as Amended.]

J. RESOLUTIONS:

1. Resolution No. 2013-34, RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE CIVIL SERVICE COMMISSION (*Karen S. Matsumoto*)

2. Resolution No. 2013-35, RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE FIRE COMMISSION (Savita Agarwal)

3. Resolution No. 2013-36, RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE PLANNING COMMISSION (*John K. Isobe*)

4. Resolution No. 2013-37, RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE PLANNING COMMISSION (*Amy A. Mendonca*)

K. BILLS FOR FIRST READING:

1. Proposed Draft Bill (No. 2465) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 9, KAUAI COUNTY CODE 1987, AS AMENDED, TO ALLOW FOR MULTI-MODAL TRANSPORTATION PRINCIPLES FOR SUBDIVISIONS

L. BILLS FOR SECOND READING:

1. Bill No. 2439, Draft 1 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COUNTY OF KAUAI PLANNING DEPARTMENT CIVIL FINES (*See also CR-PL 2013-01; the Planning Committee recommended approval as amended to Bill No. 2439, Draft 1 on February 5, 2013.*)

M. EXECUTIVE SESSION: *Pursuant to Haw. Rev. Stat. ("H.R.S.") §92-7(a), the Council may, when deemed necessary, hold an executive session on any agenda item without written public notice if the executive session was not anticipated in advance. Any such executive session shall be held pursuant to H.R.S. §92-4 and shall be limited to those items described in H.R.S. §92-5(a). (Confidential reports on file in the County Attorney's Office and/or the County Clerk's Office. Discussions held in Executive Session are closed to the public.)*

1. ES-595 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an executive session with the Council to provide the Council with a briefing, discussion and consultation regarding the quarterly report on pending and denied claims. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.
2. ES-596 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter section 3.07(E), the purpose of this executive session is to provide the Council with a briefing as it relates to Defendant Shaylene Iseri-Carvalho in Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 RLP (U.S. District Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

3. ES-597 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter section 3.07(E), the purpose of this executive session is to provide the Council with a briefing as it relates to Defendant Sheilah Miyake in Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 RLP (U.S. District Court) and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.
4. ES-598 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter Section 3.07(E), the purpose of this executive session is to provide the Council with a briefing on Wayne R. Daniel v. Kodani and Associates, Inc., et al., Civil No. 08-1-0006 (Fifth Circuit Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.
5. ES-599 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney, on behalf of the Council, requests an executive session with the Council, to consult with Special Counsel relating to the investigation of personnel matters involving the Office of the County Auditor and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

N. ADJOURNMENT:

- O. PUBLIC HEARING NOTE: If the Council is not finished with this meeting by approximately 1:30 p.m., it will recess for public hearings on the following. After the public hearings, the Council will reconvene to complete any unfinished business.

*[*For complete information, including a summary of the item, please refer to the official Notice of Public Hearing. The official Notice of Public Hearing has been published, posted on the bulletin board, and filed in the County Clerk's Office as required by law. Notwithstanding this Council Agenda, the Council may hold a public hearing on any item which has been posted in advance in compliance with the Sunshine Law.]*

For a copy of the notice, please go to:

<http://www.kauai.gov/Government/CountyCouncil/PublicHearingNoticesandMinutes/tabid/599/Default.aspx>

1. Bill No. 2462 - AN ORDINANCE AMENDING ORDINANCE NO. B-2012-737 AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2012 THROUGH JUNE 30, 2013, BY REVISING THE AMOUNTS ESTIMATED IN THE BOND FUND (*Hardy Street Improvements \$740,000.00*)
2. Bill No. 2463 - A BILL FOR AN ORDINANCE AMENDING SECTION 19-1.4, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO PARKS AND RECREATION

- P. NOTE: SPECIAL ACCOMMODATIONS AND SIGN LANGUAGE INTERPRETER AND INTERPRETERS FOR NON-ENGLISH SPEAKING PERSONS ARE AVAILABLE UPON REQUEST FIVE (5) DAYS PRIOR TO THE MEETING DATE, TO THE COUNTY CLERK, 4396 RICE STREET, SUITE 209, LIHU'E, KAUAI. TELEPHONE NO. (808) 241-4188. FACSIMILE NO. (808) 241-6349.